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10/533,457	10/06/2005	Monika Schmidt	2345/212	8925
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EXAMINER KING, SIMON				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/533,457

**Applicant(s)**

SCHMIDT ET AL.

**Examiner**

SIMON KING

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 16-30 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 02 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date 5/2/2005  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for claim 16, In 1, the claimed limitation of "the charge invoicing" has no antecedent basis. As for claim 16, In 2, the claimed limitation of "one calling, analog terminal device" render claim 16 indefinite. Examiner is not sure if applicant is claiming "one calling" to "another" or the applicant is claiming "one calling analog terminal device". As for claim 16, In 8, the claimed limitation of "the start" and "the generation" has no antecedent basis. As for claim 16, In 11, the claimed limitation of "the existing test-communication connection" has no antecedent basis. As for claim 16, In 13, the claimed limitation of "it is .." render claim 16 indefinite. Examiner is not sure what "it" is referencing to. As for claim 16, In 13, the claimed limitation of "the end of the test ...." have no antecedent basis. As for claim 16, In 15, the claimed limitation of "if yes" render claim 16 indefinite. Examiner is not sure which "if yes" condition or antecedent basis is referencing to. As for claim 16, In 15, the claimed limitation of "the end of the test ...." have no antecedent basis. As for claim 16, In 16, the claimed limitation of "it is checked ..." render claim 16 indefinite. Examiner is not sure what "it" is referencing to.

As for claim 17, In 1, the claimed limitation of "it is ..." render claim 17 indefinite. Examiner is not sure what "it" is referencing to. As for claim 17, In 1, the claimed limitation of "the number of time pulses" has no antecedent basis. As for claim 17, In 2-3, the cited limitation of "test-

communications connection is less than, greater than, or equal to a predetermined, maximum number y of time pulses" render claim 17 indefinite. Examiner is not sure what is the claimed subject matter of claim 17.

As for claim 18, In 1, the claimed limitation of "the start of the test ..." have no antecedent basis. As for claim 18, In 4, the claimed limitation of "the occurrence of ..." have no antecedent basis. As for claim 18, In 4 and 11, the claimed limitation of "first predetermined event (connect; loop connection)" render claim 18 indefinite. Examiner not sure what is the claimed limitation as cited. As for claim 18, In 5, the claimed limitation of "the measurable start of ..." have no antecedent basis.

As for claim 19, In 1, the claimed limitation of "the systematic measuring errors ..." have no antecedent basis. As for claim 19, In 2, the claimed limitation of "the location..." have no antecedent basis. As for claim 19, In 2, the claimed limitation of "the actual occurrence ..." have no antecedent basis. As for claim 19, In 3, the claimed limitation of "the first measuring point ..." have no antecedent basis. As for claim 19, In 4, the claimed limitation of "the systematic measuring error ..." have no antecedent basis. As for claim 19, In 4, the claimed limitation of "the location of the actual generation ..." have no antecedent basis. As for claim 19, In 5, the claimed limitation of "the second measuring point ..." have no antecedent basis. As for claim 19, In 6, the claimed limitation of "the interval between the detected occurrence ..." have no antecedent basis. As for claim 19, In 7, the claimed limitation of "the amount of the systematic measuring error ..." have no antecedent basis. As for claim 19, In 9, the claimed limitation of "it is ..." render claim 19 indefinite. As for claim 19, In 9, the claimed limitation of "the corrected intervals ..." have no antecedent basis.

As for claim 20, In 1, the claimed limitation of "the time intervals of ..." have no antecedent basis. As for claim 20, In 3, the claimed limitation of "the first time pulse ..." have no antecedent

basis. As for claim 20, In 3 and 5, the claimed limitation of "one calling, analog terminal device" render claim 20 indefinite. Examiner is not sure if applicant is claiming "one calling" to "another" or the applicant is claiming "one calling analog terminal device". As for claim 20, In 5, the claimed limitation of "the time measurement ..." have no antecedent basis. As for claim 20, In 6, the claimed limitation of "the immediately preceding time pulse ..." have no antecedent basis. As for claim 20, In 8, the claimed limitation of "the last time pulse ..." have no antecedent basis.

As for claim 22, In 4, the claimed limitation of "second predetermined event (connect; loop connection)" render claim 22 indefinite. Examiner not sure what is the claimed limitation as cited. As for claim 22, In 5, the claimed limitation of "the measurable end of the test ..." have no antecedent basis. As for claim 22, In 10, the claimed limitation of "the value of the time measurement ..." have no antecedent basis. As for claim 22, In 10, the claimed limitation of "the second predetermined time ..." have no antecedent basis.

As for claim 23, In 1-2 and 12-13, the claimed limitation of "second predetermined event (connect; loop connection)" render claim 23 indefinite. Examiner not sure what is the claimed limitation as cited. As for claim 23, In 8, the claimed limitation of "the value of the time measurement ..." have no antecedent basis. As for claim 23, In 8-9, the claimed limitation of "the end of the test- communication ..." have no antecedent basis. As for claim 23, In 8, the claimed limitation of "the values of all the time measurements ..." have no antecedent basis. In addition the cited "all the time measurements" render claim 23 indefinite.

As for claim 24, In 1, the claimed limitation of "the systematic measuring errors ..." have no antecedent basis. As for claim 24, In 3, the cited limitation of "and/or" render claim 24 indefinite. Examiner is not sure if applicant is claiming "and" or "or". As for claim 24, In 4, the claimed limitation of "the systematic measuring error ..." have no antecedent basis. As for claim 24, In 4-5, the claimed limitation of "the location of the actual generation of time ..." have no antecedent

basis. As for claim 24, In 1, the claimed limitation of "the systematic measuring errors ..." have no antecedent basis. As for claim 24, In 6, the claimed limitation of "the occurrence ..." have no antecedent basis. As for claim 24, In 6, the claimed limitation of "second predetermined event (connect; loop connection)" render claim 24 indefinite. Examiner not sure what is the claimed limitation as cited.

As for claim 25, In 3, the claimed limitation of "calling, analog terminal device" render claim 25 indefinite. Examiner is not sure if applicant is claiming "one calling" to "another" or the applicant is claiming "one calling analog terminal device".

As for claim 26, In 2 and 4, the cited limitation of "may" render claim 26 indefinite. The word "may" is not a positive recitation. As for claim 26, In 3, the claimed limitation of "calling, analog terminal device" render claim 26 indefinite. Examiner is not sure if applicant is claiming "one calling" to "another" or the applicant is claiming "one calling analog terminal device". As for claim 26, In 7 and 9, the claimed limitation of "predetermined event (connect; loop connection)" render claim 26 indefinite. Examiner not sure what is the claimed limitation as cited. As for claim 26, In 8, the claimed limitation of "the measurable start of ..." have no antecedent basis. As for claim 26, In 9, the cited limitation of "and/or" render claim 26 indefinite. Examiner is not sure if applicant is claiming "and" or "or". As for claim 26, In 10, the claimed limitation of "the measurable end of ..." have no antecedent basis. As for claim 26, In 14, the claimed limitation of "the interval between the occurrence of ..." have no antecedent basis. As for claim 26, In 15, the claimed limitation of "the reception of the first time pulse ..." have no antecedent basis. As for claim 26, In 17, the claimed limitation of "the interval between the occurrence of ..." have no antecedent basis. As for claim 26, In 18, the claimed limitation of "the reception of at least one time pulse ..." have no antecedent basis. As for claim 26, In 20, the claimed limitation of "the measured time spans of the respective time ..." have no antecedent basis.

As for claim 27, In 2, the claimed limitation of "if the number of time pulses after the end of the test ..." has no antecedent basis. As for claim 27, In 2-4, the cited limitation of "test-communications connection is less than, greater than, or equal to a predetermined, maximum number y of time pulses" render claim 27 indefinite. Examiner is not sure what is the claimed subject matter of claim 27.

Claims 28-30 are rejected under 112th second for similar reasons as stated above. Furthermore, for claim 29, In 1, the claimed limitation of "The testing device as recited in one of 16 ..." render claim 29 indefinite.

As for claim 30, In 1, the claimed limitation of "The testing device as recited in one of 10 ..." render claim 29 indefinite, since claim 10 is a canceled claim. Appropriate corrective actions is required.

#### ***Allowable Subject Matter***

3. Claims 19, 22, 23 and 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 16-30 rejected under 35 U.S.C. 102(b) as being anticipated by Honda et al. (4,485,270).

As for claim 16, Honda discloses a method for verifying the charge invoicing for a communications connection according to time intervals, a testing device able to simulate at least one calling, analog terminal device and at least one called terminal device being connected to at least one network node that can generate time pulses (abstract and c1, In 60-68 and c2, In 1-8); the method comprising the following method steps: at least one predetermined test-communications connection is set up and cleared again via at least the one network node (c3, In 38-47); the interval between the start of the test-communications connection and the generation of a first time pulse is ascertained, and it is checked if the ascertained interval is within a first predetermined time domain (c3, In 61-68 and c4, In 1-8); during the existing test-communications connection, time-unit intervals of consecutive time pulses are measured and compared to a predetermined time interval (c4, In 9-20); and it is checked if at least one additional time pulse has been received after the end of the test-communications connection (c4, In 18-26); if yes, the interval between the end of the test-communications connection and the at least one time pulse is ascertained, and it is checked if the ascertained interval is within a second predetermined time domain (c4, In 30-46).

As for claim 17, the method, wherein it is further checked if the number of time pulses occurring after the end of the test-communications connection is less than, greater than, or equal to a predetermined, maximum number y of time pulses (c4, In 34-43).

As for claim 18, the method, wherein the time interval between the start of the test-communications connection and the generation of the first time pulse is ascertained, using the following steps: the occurrence of a first predetermined event (connect; loop connection), which corresponds to the measurable start of the test-communications connection, is detected at a first predetermined measuring point of the testing device; the reception of the first time pulse of the test-communications connection generated by the network node is detected at a second



predetermined measuring point of the testing device; and a time measurement is started or stopped as a function of the detected occurrence of the first predetermined event (connect; loop connection) and the reception of the first time pulse (c3, In 61-68 and c4, In 1-8).

As for claim 20, the method, wherein the time intervals of consecutive time pulses are measured, using the following steps: the first time pulse received by the calling, analog terminal device starts a first time measurement; each subsequent time pulse received by the calling, analog terminal device stops the time measurement, which has been started by the immediately preceding time pulse, and starts a further time measurement; an  $i^{\text{th}}$  time measurement is started by the last time pulse of the test-communications connection (c6, In 27-43).

As for claim 21, the method, wherein each initiated time measurement is assigned a serial number (c6, In 41-48).

As for claim 25, the method, wherein the first measuring point is defined by the called terminal device; and the second measuring point is defined by the calling, analog terminal device, the test-communications connection also being able to be ended at the two terminal devices (c2, In 44-63).

As for claim 26, Honda discloses a testing device for connection to at least one network node, which is to be tested and may emit time pulses, comprising: a call simulator for simulating at least one calling, analog terminal device and for simulating at least one further terminal device, which may be operated as a called terminal device; a first detector device for detecting time pulses; a second detector device for detecting a first predetermined event (connect, loop closure), which corresponds to the measurable start of a test-communications connection; the first and/or second detector device being designed to detect a second predetermined event (disconnect; loop interruption), which corresponds to the measurable end of a test-communications connection; a first time-measuring device for measuring, in each instance, time

intervals of two consecutive time pulses; a second time-measuring device for measuring the interval between the occurrence of the first predetermined event and the reception of the first time pulse of a set up test-communications connection; a third time-measuring device for measuring the interval between the occurrence of the second predetermined event and the reception of at least one time pulse after the measured end of the test-communications connection; and an evaluation device for comparing the measured time spans of the respective time-measuring devices to corresponding, predetermined time domains (Fig. 3 and 4)(also see rejection for claim 1).

As for claim 27, the testing device, wherein the evaluation device is designed to check if the number of time pulses occurring after the end of the test-communications connection is less than, greater than, or equal to a predetermined, maximum number *y* of time pulses (c4, In 34-43).

As for claim 29, the testing device wherein a device for serially numbering consecutive time intervals is provided; in response to the numbers assigned to the time intervals, the third time-measuring device may detect if a time interval has been measured in the first time-measuring device after the detection of the second predetermined event (disconnect, loop interruption); and the third time-measuring device or the evaluation device may add the value for the interval between the end of the test-communications connection and the first time pulse received after the end of the test-communications connection and the values of all of the measured time intervals, whose numbers are, in each instance, greater than the number of the time interval that has been instantaneously measured in response to the occurrence of the second predetermined event (disconnect; loop interruption) at the first or second detector device of the testing device (c3, In 61-68 and c4, In 1-8).

As for claim 30, the testing device, wherein the first detector device is assigned to the calling, analog terminal device, and the second detector device is assigned to the called terminal device (abstract).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIMON KING whose telephone number is (571)270-1950. The examiner can normally be reached on 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FAN TSANG can be reached on (571)272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

10 April 2010

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Supervisory Patent Examiner, Art Unit 2614

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